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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,465	12/05/2003	Luis E. Luciani JR.	200314490-1	9421

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EXAMINER	
DINH, KHANH Q	

ART UNIT	PAPER NUMBER
2151	

NOTIFICATION DATE	DELIVERY MODE
01/03/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/728,465	LUCIANI ET AL.	
	Examiner	Art Unit	
	Khanh Dinh	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *7-13* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6, 14-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/5/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to the Restriction reply and Remarks filed on 10/13/2007.

 Applicant elects Group I (claims 1-6 and 14-20) for examination with traverse.

Restriction Response

In response to the Applicant's remark that the restriction is not proper, Examiner respectfully maintained the restriction because of the following reasons:

Restriction to one of the following inventions is required under 35 U.S.C. 121 as follows: Group I (claims 1-6 and 14-20) is drawn to a method and system for logging into a remote computer by way of a management processor to initiate a remote console session using a default and a none-default remote consol session, classified in class 709, subclass 224. While Group II (claims 7-13) is drawn to a system management processor for switching to a software based remote console session from the hardware remote console session, classified in class 709, subclass 218. The inventions are distinct, each from the other because of the following reasons.

Inventions I, II are related as subcombinations disclosed as usable together in a combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as to a method and system for logging into a remote computer by way of a management processor to initiate a remote console session using a default and a none-default remote consol session, classified in a *different Class/Subclass.* Invention II has separate utility such as a system management processor for switching to a software based remote console session from the hardware remote console session, classified in

a *different Class/Subclass.* For the reasons given above restriction for examination purposes as indicated is proper.

Therefore, the restriction for the instant application is respectfully maintained and made final.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a U.S. patent application and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re van Ornurn, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Uogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington,418 F.2d 528, 163 USPQ 644 (CCPA 1969).
3. A timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. 1.130(b).
4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-3 and 14-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-17 of application 10/729,676 filed 12/5/2003.

6. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patent.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6 and 14-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhu et al.,US Pub. No.20030084169.

As to claim 1, Zhu discloses a method comprising:

logging into a remote computer by way of a management processor to initiate a remote console session (see abstract, fig.1, [0017] to [0020]); and

switching between a default remote console session and a non-default remote console session (enabling users to share computer applications during a data conference, see [0020] to [0027]).

As to claims 2-4, Zhu discloses that the default remote console session is a hardware-based remote console session and the non-default remote console session is a software-based remote console session, the default remote console session is a software-based remote console session and the non-default remote console session is a hardware-based remote console session and wherein the default remote console session is adjustable between a hardware-based remote console session and a software-based remote console session (see figs.1, 2, [0021] to [0027] and [0031] to [0040]).

As to claims 5-6, Zhu discloses determining availability of the default remote console session; disabling the non-default remote console session and enabling the default remote console session, logging into the management processor comprising an application specific integrated circuit, a microcontroller and a memory for communication between the remote computer and the management processor (see fig.3, [0037] to [0041] and [0043] to [0046]).

As to claim 14, Zhu discloses a computer system comprising a means for providing remote console to the computer system, wherein the means for providing switches to a default remote console session from a non-default remote console session (see abstract, fig.1, [0017] to [0020] and [0024] to [0027]).

Claims 15-19 are rejected for the same reasons set forth in claims 2-6 respectively.

As to claim 20, Zhu discloses ascertains availability of the default remote console session, ensures the coupling of the computer system and the means for providing, disables the non-default remote console session and enables the default remote console session (see figs.1, 2, [0021] to [0027] and [0031] to [0040]).

Conclusion

3. Claims 1-6 and 14-20 are rejected.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FOLLANSBEE JOHN, can be reached on (571) 272-3964. The fax phone number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:
Commissioner for patents
P O Box 1450
Alexandria, VA 22313-1450

Khanh Dinh

KHANH DINH
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TECHNOLOGY CENTER 2100